

## REMARKS

The Office Action dated April 19, 2007 has been carefully reviewed. Claims 1-4 and 6-9 stand rejected in the 4/19/2007 Office Action. By this amendment, claims 1 and 6 are amended.

### DOUBLE PATENTING

Claims 1-4, 6, and 7 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 14, 15, 17, 18, and 31 of U.S. Patent NO. 6,306,159. On February 6, 2007, Applicants filed a Terminal Disclaimer in the present application, which was not accepted by the Examiner. Subsequently, on March 9, 2007, Applicants filed a Statement under 37 C.F.R. 3.73(b) and a Power of Attorney. Applicants now submit herewith a new Terminal Disclaimer in which the owner of the above-identified patent application disclaims the terminal part of the statutory term of any patent granted on the present application which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,306,159. For ease of review by the Examiner, the Terminal Disclaimer submitted herewith is identical to the Terminal Disclaimer submitted on 2/6/2007, except for the undersigned attorney.

### SECTION 102 REJECTIONS – COLVIN

Claims 1-4 and 6-9 stand rejected under 35. U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,066,160 to Colvin et al. (herein after “Colvin”). Independent claims 1 and 6 have been amended to recite “a first anchor . . . a cannula defined therein” and wherein “the suture connects the first anchor to the second anchor by passing through the cannula of the first anchor while traveling in a first direction, by passing through the second anchor hole, and by returning through the cannula of the first anchor while traveling in a second and opposite

direction.” That is, the suture travels in the first and second directions *through the same cannula* defined in the first anchor. Colvin does not disclose or suggest such a feature.

Anticipation exists only if all the elements of the claimed invention are present in a product or process disclosed, expressly or inherently, in a single prior art reference. *Hazeltine Corp. v. RCA Corp.*, 468 U.S. 1228 (1984). Colvin discloses a suture terminating device 10 having a main member 12 with two separate and distinct apertures 14(a) and 14(b) to receive opposite ends of a suture 16 therethrough. As noted by Colvin, the apertures 14(a) and 14(b) “cooperate as pairs, each member receiving one of the two ends of the suture being secured.” See col. 8, lines 38-40. Further, FIG. 4 of Colvin shows suture 16 threaded through the first aperture 14(a) and then through the second aperture 14(b). In other words, the suture 16 of Colvin is threaded only once and in only one direction through each aperture 14(a) and 14(b) of Colvin. As such, Colvin teaches the use of multiple apertures through which the suture 16 is threaded in a single direction. Colvin, however, fails to disclose or suggest threading a suture through a single cannula in opposite directions as recited in amended claims 1 and 6. Further, not only does Colvin fail to disclose or suggest the threading of a suture through a single cannula in multiple directions, such a configuration would simply not work with the device disclosed in Colvin.

Accordingly, Colvin does not disclose or suggest a suture which passes “through the cannula of the first anchor while traveling in a first direction” and which passes “through the cannula of the first anchor while traveling in a section and opposite direction” as is recited in newly amended claims 1 and 6. As such, Colvin fails to disclose a required element of these claims. Therefore, claims 1 and 6 are believed to be in condition for allowance. Because claims 2-4 depend from claim 1 and claims 7-9 depend from claim 6, these claims are also believed to be in condition for allowance and such action is respectfully requested.


## CONCLUSION

In view of the foregoing, it is submitted that this application is in a condition for allowance. Action to that end is hereby solicited. If there are any questions or comments that would speed prosecution of this application, the Examiner is invited to call the undersigned at (317) 261-7959.

The Commissioner is hereby authorized to charge any fees which may be due in connection with this response, and any shortages or overpayments of fees, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 with reference to file 26502-73682.

Respectfully submitted,

BARNES & THORNBURG LLP



Glen M. Kelfett  
Registration No. 60,202  
Barnes & Thornburg  
11 South Meridian Street  
Indianapolis, Indiana 46204-3535  
Telephone: (317) 261-7959  
Fax: (317) 231-7433